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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Delivered on July 3, 2007

\+ CRL.REV.P.329/2006

RAMESH KHULLAR .....Petitioner
Through none

versus

GOVT. OF NCT OF DELHI ..... Respondent
Through Mr. O.P. Saxena, APP for State
Mr. Prabhjit Jauhar, Ms. Anupama Kaul, Advocates

CORAM:
Mr. Justice S. Ravindra Bhat

1. Whether reporters of local papers may be allowed to see the judgment.? yes

2. To be referred to the Reporter or not? yes

3. Whether the judgment should be reported in the Digest? yes

Mr. Justice S. Ravindra Bhat (open Court)

1. None for the petitioner. On the previous date of hearing, namely, 15.12.06, the matter was renotified at the request of counsel for the petitioner. Prior to that on 17.11.06, the petitioner was un-represented.

2. This revision challenges an order on charge dated 14.03.06 by which the petitioner and other accused were charged with having committed offences under Sections 467 and 420 read with Section 120B Indian Penal Code (IPC). The First Information in this case was lodged on 06.11.95. The petitioner is the son of Late Ms. Swaran Khullar, who died on 13.07.92. The complainant/informant is Mr. Mulk Raj Khullar is the brother of the accused. According to the informant, the deceased's mother had executed a registered Will on 23.01.87 by which he was

entitled to 1/4th undivided share in some immovable property. It was alleged that on 15.09.92, he received a notice from some counsel informing about the existence of a registered Will dated 03.03.92. The informant/ complainant procured a certified copy of the Will said to have been executed by Late Ms. Swaran Khullar on 03.03.92.

3. According to him, the Will disclosed discrepancies. He, therefore, lodged a First Information Report with the police, which led to the matter being investigated and a charge-sheet being filed on 13.12.2001. In the interregnum, the accused filed a partition suit in which the disputed Will was propounded. That suit was subsequently transferred to the Additional District Judge where it is said to be pending. The charge-sheet, *inter alia*, recorded that even though no definite opinion could be given vis-a-vis the signatures of the testatorix, yet the report based on a comparison of the thumb impression on three different Wills (namely, 1976, 1987 and the disputed Will) suggested that there was a doubt over the authenticity of the disputed Will, said to have been executed by Ms. Swaran Khullar. The charge-sheet also alleged that the records of the Sub-Registrar were discrepant in the sense that in the concerned register, in the place where where the name "Ms. Swaran Khullar" ought to have been shown, what was mentioned was "Mr. Sardari Lal Marwah". The Sub-Registrar, in a proceeding before this Court had stated that the Will of Mr. Sardari Lal Marwah in fact existed and was relatable to the serial number for which Ms. Swaran Khullar's Will was alleged to have been registered.

4. The charge-sheet mentioned that the mandatory stamp required to be

affixed in terms of Section 60 of Stamp Act were absent. On the basis of these materials the Crime Branch recommended that the charges ought to be framed against the accused. The impugned order, therefore, proceeded to frame the charges.

5. In the revision petition before this Court, the petitioner/accused has sought to highlight the fact that a civil proceeding is pending. In addition, it is urged that the existence of the serial number in the Register, in relation to some other will did not suggest any culpability or forgery by the accused/petitioner. A contention has also been raised regarding inconclusive opinion as regards the signatures on the disputed Will. It was urged in the petition that while framing charges, the Court should be satisfied that the materials on record are such that the prosecution can prove its case beyond reasonable doubt.

6. It is submitted on behalf of the respondent/informant that the principal ground raised about existence of a civil proceeding, is not an inhibiting factor. According to Mr. Prabhjit Jauhar, the learned counsel, a Constitution Bench of the Supreme Court in *Iqbal Singh Marwah -v- Meenakshi Marwah* 2005 III AD (SC) 489 held that the mere fact that civil proceedings exists cannot constitute a bar or deter the Court from proceeding in relation to an FIR. He also relied upon the decision in *Kamla Devi Aggarwal -v- State of West Bengal* 2002 Cal Cr.LR 237.

7. I have considered the materials on record. The charge-sheet highlights, *inter alia,* discrepancies between the three sets of thumb impressions of Late Ms. Swaran Khullar. Additionally, it has focused on a serious irregularity with regard

to the entry in the register available with the Sub-Registrar as also the absence of a mandatory stamp. These coupled with the statement of Sub-Registrar and certain other officials point to grave suspicion regarding the genuineness of the documents propounded by the accused, and his *prima facie* involvement in relation to the offences.

8. It is no doubt true that the Court, while considering whether to frame charges or not has to sift the available materials and evidence. If it is convinced that grave suspicion exists about the participation of the accused in any offence or his culpability, the charges can be framed. Equally, the evidence sifting exercise cannot entail a detailed scrutiny on the merits or the quality of the evidence.

9. In view of the limited nature of the evidence valuation which cannot be equated with an examination on merits, as well as the decisions of the Supreme Court cited by the respondent which have ruled that the existence of civil proceedings would not inhibit criminal proceedings or framing of charges on the same sets of facts, I am satisfied that no ground for interference has been made out. The order does not disclose any error in appreciation of facts or law.

10. The petition is accordingly dismissed.

S. RAVINDRA BHAT,J

JULY 03, 2007
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